

# UCIDA

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Ulster County Industrial Development Agency

## **Ulster County Industrial Development Agency Minutes February 11, 2015**

A regular monthly meeting of the Ulster County Industrial Development Agency was held at 8:00 a.m., Wednesday, February 11, 2015, Karen Binder Library, 6<sup>th</sup> Floor, Ulster County Office Building, 244 Fair Street, Kingston, NY.

The following agency members were present:

Michael Horodyski	Chair
Robert Kinnin	Secretary – arrived 8:05 a.m.
Floyd Lattin	Treasurer
James Malcolm	Assistant Treasurer
Mary Sheeley	Member

The following agency members were absent:

John Livermore	Assistant Secretary
John Morrow	Vice Chair

Office of Economic Development Staff:

Linda Clark  
Suzanne Holt  
Karl Schlegel

UCIDA Attorney and Bond Counsel:

A. Joseph Scott	Hodgson Russ LLP
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Additional Attendees:

T. J. Briggs	Ulster County Legislator
Geddy Sveikauskas	Ulster Publishing

Chair Horodyski called the meeting to order at 8:00 a.m.

### **PLEDGE OF ALLEGIANCE**

The members of the Agency participated in the Pledge of Allegiance to the flag.

### **READING OF THE UCIDA MISSION STATEMENT**

Chair Horodyski read the Mission Statement of the Agency.

The mission of the Ulster County Industrial Development Agency is to advance the job opportunities, general prosperity and long-term economic vitality of Ulster County residents by targeting tax incentives, bonding and other assistance to foster creation and attraction of new business and the retention and expansion of existing business.

## **MINUTES**

**Motion** Floyd Lattin, seconded by Mary Sheeley, moved to approve the Minutes of the January 14, 2015, meeting. A copy of said Minutes is on file.

**Vote:** The motion was adopted. Robert Kinnin absent for the vote.

## **COMMITTEE REPORTS**

### **AUDIT COMMITTEE**

Committee Chair Floyd Lattin reported that the Audit Committee had not met.

### **GOVERNANCE COMMITTEE**

#### **Report of Confidential Evaluation of Board Performance**

In the absence of Committee Chair John Morrow, Chair Horodyski addressed the Report of Confidential Evaluation of Board Performance. He appreciated the members taking the time to go through the evaluation. He thought that it was important as an Agency to focus on where we may need some improvement. In general, the performance appeared to be very good. Currently, the website is in flux, but the policies that we have put into place from our UTEP to our matrix to our Points Calculator right on down, are there. Governance reviews them every year to see if there are updates and/or changes that need to be made. If there are any questions, he or Ms. Holt were available to discuss. A copy of the final report is on file.

Mr. Floyd Lattin stated that there was some discussion at the meeting that he attended in January about potentially getting information a little bit earlier than the Friday before the meeting.

Chair Horodyski thought that it was a great idea and staff should endeavor to get the board materials out at least one week in advance of the meeting.

Mr. Lattin requested that something be added to the website stating that it was unavailable/under construction.

#### **Application for Contract for Services**

Chair Horodyski reported that this was an update on how we have individuals apply. The actual contract really determines the consideration of what we expect from them to show that it is a true give and take .... Quid pro quo. It shows transparency. A copy of said application is on file.

**Motion:** Robert Kinnin, seconded by Mary Sheeley, moved to approve the revised Application for Contract for Services.

**Vote:** The motion was adopted.

## **READY2GO**

Ms. Holt reported that there was no report for the Ready2Go Committee.

**OLD BUSINESS**

Darienlake – Kingston

Counsel Scott reported their counsel responded and expects to close mid-March.

Ulster Commons

Counsel Scott stated that there was nothing new to report. He will follow up with a formal letter.

14 Pine Street

Counsel Scott stated that there was nothing to report. He will follow up with a formal letter.

**NEW BUSINESS**

2015 Contract for Services Between Ulster County and the UCIDA

**Motion:** James Malcolm, seconded by Robert Kinnin, moved to approve the 2015 Contract for Services with Ulster County. A copy of said contract is on file.

**Vote:** The motion was adopted.

CGR – Invoice for informANALYTICS

Chair Horodyski reported that this is a \$250 Invoice for informANALYTICS. This is used in our process as we take in applications. It is one of the tools that are used to vet applications.

Mr. Karl Schlegel stated that informANALYTICS provides multipliers for construction costs; cost of living adjustments; up to date curb market analysis of the costs and benefits of a potential project.

Chair Horodyski stated that based upon the industry, based on the construction jobs it gives you an idea ....

Mr. Schlegel remarked that it is also based upon the region as well. It will actually take into account the Mid-Hudson Region compared to the City, compared to upstate. It is a pretty informed tool.

Mr. Lattin asked if this is a quarterly report?

Mr. Schlegel responded no. This is a tool that we have that is used per project.

Mr. Lattin stated so it is basically software that tells you what the impact would be based upon information provided.

Mr. Robert Kinnin asked if it was software or web based?

Mr. Schlegel replied that html based. They are looking to make it software based. They are looking to make it a little bit software richer.

Mr. Lattin stated that it would be interesting to see the form of the report. Is it 12 things; is it 24 things; is it 64 things? How many points of interest or data.

Ms. Holt responded that a sample could be brought to the next meeting.

**Motion:** Robert Kinnin, seconded by Floyd Lattin, moved to approve the Invoice for payment in the amount of \$250.00.

**Vote:** The motion was adopted.

#### Certificates of Deposit

Mr. Schlegel reported on behalf of Christopher Rioux, that the Agency currently has two Certificates of Deposit (CDs). The 90-day CD matured in January 22, 2015. Catskill Hudson Bank has offered to back date it to, as oppose to liquidating it, to a 90 day CD as of January 22, 2015. That is a \$125,000 CD. The Agency currently has \$303,000 in a money market account. Mr. Rioux has recommended that the Agency re-invest in the 90-day CD. In addition, there is a \$100,000 CD that renews in February. That is a 6 month CD.

Chair Horodyski stated that his feeling is to maintain the terms. It is a very basic ladder, but we do like to keep our funds relatively short-termed so that they have access to them.

**Motion:** Floyd Lattin, seconded by Mary Sheeley, moved to renew both Certificates of Deposits at the same rates.

**Vote:** The motion was adopted.

#### REPORT FROM COUNSEL

Counsel Scott presented the members of the Agency with a memorandum dated February 10, 2015, the subject of which was ACTION REQUIRED by March 31, 2015 to Avoid the Loss of All State Tax Exemptions on Pending Projects. A copy of said memorandum is on file. Counsel Scott stated that it was actually a two-part discussion. The first thing that was being passed out is an excerpt from the Albany Business Review entitled Lawmakers question whether New York's economic development programs work. A copy of the excerpt is on file. It shows that the OSC is taking Empire State Development (ESD) to task for economic development issues. He wanted members to see that it is not just local IDAs that are the focal points of criticism or review of economic development programs, it is also state agencies. With reference to the memorandum, it summarizes some of the provisions that are contained within the Governor's budget bill, technically Part W of the Governor's budget bill. There are a number of provisions in Part W that effect IDAs significantly with respect to their operations. One such provision is that before we do any project that grants state tax exemptions, and state tax exemptions are defined as meaning mortgage recording tax, sales tax and real estate transfer tax, we need to get ESDC approval for the project. It is not just a local approval through the IDA, we actually need to get state agency approval for any IDA project that grants state assistance. Unfortunately, that assistance, or that approval, takes place at the end of the process that we follow. The Agency would need to go through everything that we need to do, documents, SEQR, approvals, public hearing and then we submit the application to ESDC; ESDC then has 45 days in which to consider the project. The critical issue that is seen in this process, is one of the elements that ESDC will review in connection with making their determination as to whether to approve an IDA project or not, is that the project cannot provide benefits to another project that will compete with existing projects within the area.

Mr. James Malcolm asked if there was some built in appeal process where we go through and do all the hard work trying to get this project in and we don't feel it is going to butt heads with something else .... He didn't know what the

stated based this on and if the state rules against you and says this project can't have any state incentives and the project dies is there any sort of appeal?

Counsel Scott responded that his experience with these state programs is that the policy makers are operating on the fly and there is no operating procedures at the staff level.

Mr. Lattin suggested that presumably those would have to be put in place.

Counsel Scott responded presumably something like that could be put in place, but what he was getting at is that it is taking away a significant amount of local control and decision making.

Mr. Malcolm thought that it was taking away the integrity of the Agency.

Counsel Scott also wished to flag to page 4 of the memo and the items that need to be on the website. What they have done in this legislation is they have authorized the Authorities Budget Office to have enforcement powers to follow up on "failures of operations" including failure to maintain your website with these items clearly being taken care of. If you look at the last paragraph, if the ABO finds that there are failures there will be an impact on the Agency's continuing ability to operate. With reference to (7)(e) a description of every project, it was counsel's opinion that this would apply to all "live" projects. This is pending legislation. It was his recommendation that at a minimum, we should advise Darienlake or any of our pending projects that they would be subject to this.

Mr. Lattin stated that depending on the standard they might fall very much under it.

Chair Horodyski stated that the Agency would still be able to grant PILOTs; because it is a local taxing issue, but we would not be able to issue mortgage tax, sales tax and real estate transfer tax.

Mr. Kinnin stated that we could exempt them from county tax.

Chair Horodyski stated that that was part of the PILOT.

Counsel Scott stated that that was an interesting question. He thought that Mr. Kinnin was correct on the sales tax issue, but the Governor's bill is really very vaguely worded. He believed that Mr. Kinnin was right that we could exempt them from the county's portion of the sales tax.

Chair Horodyski stated that Counsel Scott's firm has drafted a letter for IDAs, it is basically a missive saying that we are taking a little bit of an exception with the removal of our local jurisdiction and local control over some of these issues and we would appreciate then taking the letter under advisement as they move through the process. He thought that some of the items were proposed in last year's budget and they were removed.

Counsel Scott remarked that some of them were removed and they have come back with much stronger ones this year.

Chair Horodyski stated that he had seen the letter yesterday. The letter speaks to some generalities with regard to the different economies of the various districts. He would like it customized to Ulster County and the Hudson Valley. He wanted it to be more centric and meaningful to our county.

Mr. Malcolm stated that he could understand oversight on IDAs that were underperforming, but for an IDA that is within the parameters and he thought that is should be stressed.

Chair Horodyski stated that he agreed with Mr. Malcolm. He didn't think that anyone was saying that the ABO should not deal with the IDAs that are not doing what they should be doing. But those that take their best practices, move through the process judicially and contemplatively with regards to the decision they make with reference to projects, we are doing "God's work here".

It was unanimously agreed by the members of the Agency that Counsel would prepare an appropriate letter incorporating the comments presented. The letter will be sent to all members of the Agency prior to it being sent for comment. The spirit of the letter is that we wish to maintain local control.

#### **PUBLIC COMMENT**

Chair Horodyski opened the meeting for public comment. There were no individuals who requested the Privilege of the Floor. The public comment section of the Agenda was closed.

#### **ADJOURNMENT**

**Motion:** James Malcolm, seconded by Mary Sheeley, moved to adjourn the meeting

**Vote:** The motion was adopted.

The meeting was adjourned at 8:28 a.m.

Respectfully submitted,

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John Livermore  
Assistant Secretary